



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,414	11/16/2001	Gil Gavriel Dudkiewicz	051448.0206	1945

7590

08/07/2003

David A. Blumenthal
Foley & Lardner
2029 Century Park East - Suite 3500
Los Angeles, CA 90067-3021

EXAMINER

SALCE, JASON P

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 08/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,414

Applicant(s)

DUDKIEWICZ ET AL.

Examiner

Jason P Salce

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19-26 and 28-35 is/are rejected.
- 7) ☒ Claim(s) 9, 18 and 27 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Examiner thanks applicant's representation for the interview conducted 7/21/03, where the scopes of the claims were discussed. No agreement was reached on the claim limitations.

Response to Arguments

2. Applicant's arguments with respect to claims 1-35 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 30 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 30 provides no information regarding their physical interrelationships within a memory (see *In re Lowry* 32 USPQ2d 1031). The claims only state developing a viewer profile and the data within that viewer profile.

To expedite a complete examination of the instant application the claims rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 5-6, 8, 10-17, 19-26, 28-35 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Lee et al. (U.S. Patent No. 6,463,428).

Referring to claim 1, Lee discloses a viewer profile identifier tool for receiving input from a user specifying an identifier of a viewer profile to be created or edited (see Column 10, Lines 1-3).

Lee also discloses a category tool for receiving input from a user comprising preference scores (see Column 10, Lines 16-18 for assigning preference scores to beads on a UI used for classifying programs), each inputted preference score being specified for a respective category (notice that the beads in Figure 4 can represent Genre (see element 150), which is a respective category) within a hierarchy of categories and representing an amount of user interest in subject matter of the respective category (note that if scores can be assigned to the beads, the each bead can represent a higher or lower interest, therefore having a hierarchy and an amount of interest in subject matter).

Lee also discloses a keyword tool for receiving input from a user specifying keywords (see "search mode" in Figure 5 and Column 9, Lines 22-30).

Referring to claim 3, Lee discloses that the keyword tool further receives input comprising keyword preference scores associated with specified keywords (note that at

Column 10, Lines 16-18 it is disclosed that the “beads” can be given a score, and in Figure 7 a number of beads represent specific keywords (Xena, UFO, etc...)) and representing an amount of user interest in subject matter described by the associated keyword (note that the scores represent a rating, and therefore represent the amount of user interest).

Referring to claim 5, see rejection of claim 3, and note that if a user selects “Comedy”, this represents the keyword “Comedy” and a category, which can be assigned a rating value (see Column 10, Lines 16-18), therefore giving the keyword a category hierarchy (because “Comedy” can be assigned a higher score than “Sports”).

Referring to claim 6, see rejection of claim 5 for assigning a rating value to a bead in the UI (see Column 10, Lines 16-18).

Referring to claim 8, see rejection of claim 3, and note that profile beads can also be given ratings according to Column 10, Lines 16-18. Therefore a profile with a higher rating has a higher priority.

Referring to claim 10, Lee discloses an alert time advance tool for receiving input from a user specifying an amount of time prior to the programming event that an alert for the programming event is to be provided (see “MbTV” database at Column 3, Lines 23-63).

Referring to claim 11, Lee discloses that a time period can be specified when to filter and search for specific program material at Column 3, Lines 64-67 and Column 4, Lines 1-5.

Claim 12 directly relates to claim 1, with the additional limitation of storing the preference scores for said categories in association with said identifier as a viewer profile instead of a keyword tool. Lee at Column 10, Lines 26-27, teaches this limitation.

Referring to claims 13-17, see rejection of claims 1, 3, 5, 6 and 8, respectively.

Referring to claims 19-20, see rejection of claims 10-11, respectively.

Referring to claim 21, see rejection of claim 12.

Referring to claims 22-26, see rejection of claims 1, 3, 5, 23 and 8, respectively.

Referring to claims 28-29, see rejection of claims 10-11, respectively.

Referring to claim 30, see rejection of claim 1.

Referring to claims 31-35, see rejection of claims 5, 11, 8, 30 and 10, respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. in view of Barrett et al. (U.S. Patent No. 6,005,597).

Referring to claim 2, Lee discloses that an indication of a preference score can be made at Column 10, Lines 16-18, but fails to disclose the use of a sliding bar to do so. Barrett discloses a sliding bar in Figures 13-15 for indicating a degree of current user interest in a program being displayed (see Column 13, Lines 1-30). At the time the

invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the UI of Lee, using the sliding preference indication bar, as taught by Barrett, for the purpose of allowing the user to adjust the interest level manually (see Column 14, Lines 11-12 of Barrett).

Referring to claims 4-7, see rejection of claim 2.

Allowable Subject Matter

6. Claims 9, 18 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jain et al. (U.S. Patent No. 6,567,980) discloses a system for cataloging video according to user-defined metadata.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2611


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-5359 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

July 22, 2003


ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600